

is submitted to the Secretary for approval. The sample must be representative of the population of high school graduates in the United States.

(Authority: 20 U.S.C. 1091(d))

§ 668.148 Additional criteria for the approval of certain tests.

(a) In addition to satisfying the criteria in § 668.146, to be approved by the Secretary, a test must meet the following criteria, if applicable:

(1) In the case of a test developed for a non-native speaker of English who is enrolled in a program that is taught in his or her native language, the test must be—

(i) Linguistically accurate and culturally sensitive to the population for which the test is designed, regardless of the language in which the test is written;

(ii) Supported by documentation detailing the development of normative data;

(iii) If translated from an English version, supported by documentation of procedures to determine its reliability and validity with reference to the population for which the translated test was designed;

(iv) Developed in accordance with guidelines provided in the 1999 edition of the “Testing Individuals of Diverse Linguistic Backgrounds” section of the *Standards for Educational and Psychological Testing* prepared by a joint committee of the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education incorporated by reference in this section. Incorporation by reference of this document has been approved by the Director of the Office of the Federal Register pursuant to the Director’s authority under 5 U.S.C. 552(a) and 1 CFR part 51. The incorporated document is on file at the Department of Education, Federal Student Aid, room 113E2, 830 First Street, NE., Washington, DC 20002, phone (202) 377-4026, and at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 1-866-272-6272, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/

[ibr_locations.html](#). The document also may be obtained from the American Educational Research Association at: <http://www.aera.net>; and

(v)(A) If the test is in Spanish, accompanied by a distribution of test scores that clearly indicates the mean score and standard deviation for Spanish-speaking students with high school diplomas who have taken the test within five years before the date on which the test is submitted to the Secretary for approval.

(B) If the test is in a language other than Spanish, accompanied by a recommendation for a provisional passing score based upon performance of a sample of test takers representative of non-English speaking individuals who speak a language other than Spanish and who have a high school diploma. The sample upon which the recommended provisional passing score is based must be large enough to produce stable norms.

(2) In the case of a test that is modified for use for individuals with disabilities, the test publisher or State must—

(i) Follow guidelines provided in the “Testing Individuals with Disabilities” section of the *Standards for Educational and Psychological Testing*; and

(ii) Provide documentation of the appropriateness and feasibility of the modifications relevant to test performance.

(3) In the case of a computer-based test, the test publisher or State, as applicable, must—

(i) Provide documentation to the Secretary that the test complies with the basic principles of test construction and standards of reliability and validity as promulgated in the *Standards for Educational and Psychological Testing*;

(ii) Provide test administrators with instructions for familiarizing test takers with computer hardware prior to test-taking; and

(iii) Provide two or more parallel, equated forms of the test, or, if parallel forms are generated from an item pool, provide documentation of the methods of item selection for alternate forms.

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(b) If a test is designed solely to measure the English language competence of non-native speakers of English—

(1) The test must meet the criteria set forth in § 668.146(b)(6), (c)(1), (c)(2), and (c)(4); and

(2) The test publisher must recommend a passing score based on the mean score of test takers beyond the age of compulsory school attendance who completed U.S. high school equivalency programs, formal training programs, or bilingual vocational programs.

(Approved by the Office of Management and Budget under control number 1845-0049)

(Authority: 20 U.S.C. 1091(d))

§ 668.149 Special provisions for the approval of assessment procedures for individuals with disabilities.

If no test is reasonably available for individuals with disabilities so that no test can be approved under §§ 668.146 or 668.148 for these individuals, the following procedures apply:

(a) The Secretary considers a modified test or testing procedure, or instrument that has been scientifically developed specifically for the purpose of evaluating the ability to benefit from postsecondary training or education of individuals with disabilities to be an approved test for purposes of this subpart provided that the testing procedure or instrument measures both basic verbal and quantitative skills at the secondary school level.

(b) The Secretary considers the passing scores for these testing procedures or instruments to be those recommended by the test publisher or State, as applicable.

(c) The test publisher or State, as applicable, must—

(1) Maintain appropriate documentation, including a description of the procedures or instruments, their content domains, technical properties, and scoring procedures; and

(2) Require the test administrator to—

(i) Use the procedures or instruments in accordance with instructions provided by the test publisher or State, as applicable; and

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(ii) Use the passing scores recommended by the test publisher or State, as applicable.

(Approved by the Office of Management and Budget under control number 1845-0049)

(Authority: 20 U.S.C. 1091(d))

§ 668.150 Agreement between the Secretary and a test publisher or a State.

(a) If the Secretary approves a test under this subpart, the test publisher or the State that submitted the test must enter into an agreement with the Secretary that contains the provisions set forth in paragraph (b) of this section before an institution may use the test to determine a student's eligibility for title IV, HEA program funds.

(b) The agreement between a test publisher or a State, as applicable, and the Secretary provides that the test publisher or the State, as applicable, must—

(1) Allow only test administrators that it certifies to give its test;

(2) Require each test administrator it certifies to—

(i) Provide the test publisher or the State, as applicable, with a certification statement that indicates he or she is not currently decertified; and

(ii) Notify the test publisher or the State, as applicable, immediately if any other test publisher or State decertifies the test administrator;

(3) Only certify test administrators who—

(i) Have the necessary training, knowledge, and skill to test students in accordance with the test publisher's or the State's testing requirements;

(ii) Have the ability and facilities to keep its test secure against disclosure or release; and

(iii) Have not been decertified within the last three years by any test publisher or State;

(4) Decertify a test administrator for a period of three years if the test publisher or the State finds that the test administrator—

(i) Has failed to give its test in accordance with the test publisher's or the State's instructions;

(ii) Has not kept the test secure;

(iii) Has compromised the integrity of the testing process; or